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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,738	09/15/2005	Steffen Goletz	08358.0006	1565

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EXAMINER

AEDER, SEAN E

ART UNIT PAPER NUMBER

1642

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/524,738

Applicant(s)

GOLETZ ET AL.

Examiner

Sean E. Aeder, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-26 and 28-35 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-15, drawn to a method comprising subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells.

Group II, claim(s) 16-23, 32, and 33, drawn to a composition comprising a lysate obtainable by subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells.

Group III, claim(s) 24-25, drawn to a method for the production of a vaccine or pharmaceutical composition comprising the step of combining a cell lysate of obtainable by subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells or dendritic cells loaded with said lysate and an adjuvant or carrier.

Group IV, claim(s) 26, 28-31, 34, and 35, drawn to a method for the treatment or prevention of a disorder comprising administering a lysate obtained by a method comprising subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells or administering dendritic cells loaded with said lysate.

The inventions listed as groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups I-IV appears to be that they all relate to the special technical feature of a method comprising subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells.

However, Huang et al (Cancer Research, 7/1/00, 60:3435-3439) teaches a method comprising subjecting tumor cells to a temperature of more than 41.2° C for at least 15 minutes and lysing said tumor cells (Figure 1B, in particular).

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Therefore, the technical feature linking the inventions of groups I-IV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Accordingly, groups I-IV are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

### ***Species***

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Claims 26, 28-31, 34, and 35 are generic to a plurality of disclosed patentably distinct species of disorders comprising the following: cancer of the head and neck, cancer of the lung, cancer of the mediastinum, cancer of the gastrointestinal tract, bacterial infection, viral infection, fungal infection, allergic encephalomyelitis, autoimmune haemolytic anemia, etc (see claims 28-30). The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the above species are distinct disorders which differ at least in etiology, pathology, and mechanisms. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Aeder, Ph.D. whose telephone number is 571-272-8787. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEA

  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER